

COMPLETE THIS SECTION ON DELIVERY	
A. Received by (Please Print Clearly)	B. Date of Delivery
Kelly Luman 10-29-0	
C. Signature	
<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Address <input checked="" type="checkbox"/> Kelly Luman	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type	
<input checked="" type="checkbox"/> Certified Mail	
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## 1. Article Addressed to:

2001 CR 00794  
 MICHAEL ROBERTS  
 BCI&I RICHFIELD OFFICE  
 4055 HIGHLANDER PKWY  
 RICHFIELD OH 44286

## 2. Article Number (Copy from service label)

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261

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ) CASE NO. 01-CR-794  
Plaintiff )  
vs. ) COUNT ONE:  
NATHANIEL E. JACKSON, ) INDICTMENT FOR  
Defendant ) AGGRAVATED MURDER

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find the Defendant, NATHANIEL E. JACKSON\* Guilty of Aggravated Murder (did purposely cause the death of Robert Fingerhut with prior calculation and design) on December 11, 2001, in the manner and form as he stands charged in Count One of the indictment.

\* INSERT "GUILTY" OR "NOT GUILTY" IN INK

Dated: November 8, 2002

1. Kimberly Mancini
2. Margaret E. Paden
3. Kim R. Lee
4. Cynthia M. Angels
5. Deanie L. Yatat-Murphy
6. Dawn Waggoner

7. Betty M. Falatko
8. Harold N. Rogers
9. Pella Torres Reep
10. Angie M. Santis
11. Carol Swanson
12. Courtney M. Goren

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

\*\*TO BE COMPLETED IF, AND ONLY IF, YOUR FINDING ON THE CHARGE  
ON COUNT ONE, AGGRAVATED MURDER, IS GUILTY\*\*

## VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find and specify by proof beyond a reasonable doubt that the Defendant, NATHANIEL E. JACKSON, is  
\* Guilty of committing the offense of Aggravated Murder while he was committing, attempting to commit, or fleeing immediately after committing Aggravated Burglary and that the said NATHANIEL E. JACKSON was the principal offender in the commission of the Aggravated Murder, or committed the Aggravated Murder with prior calculation and design.

\* INSERT "GUILTY" OR "NOT GUILTY" IN INK

Dated: November 8, 2001

1. Kimberly Marfie
2. Margaret E. Parker
3. Kim R. Lee
4. Cynthia M. Angel
5. Merrick R. Yakt-Murphy
6. Sean Waggoner
7. Betty M. Fralatidie
8. Harold N. Rogers
9. Paula Torres Reep
10. Angela M. Alants
11. David J. Swanson
12. Courtney H. Glore

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,	)	CASE NO. 01-CR-794
	)	
Plaintiff	)	VERDICT ON SPECIFICATION
vs.	)	
	)	SPECIFICATION #2 TO THE
	)	FIRST COUNT OF THE
NATHANIEL E. JACKSON,	)	INDICTMENT
	)	
Defendant	)	

\*\*TO BE COMPLETED IF, AND ONLY IF, YOUR FINDING ON THE CHARGE  
ON COUNT ONE, AGGRAVATED MURDER, IS GUILTY\*\*

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find and specify by proof beyond a reasonable doubt that the Defendant, NATHANIEL E. JACKSON, is  
\* Guilty of committing the offense of Aggravated Murder while he was committing, attempting to commit, or fleeing immediately after committing Aggravated Robbery and that the said NATHANIEL E. JACKSON was the principal offender in the commission of the Aggravated Murder, or committed the Aggravated Murder with prior calculation and design.

\* INSERT "GUILTY" OR "NOT GUILTY" IN INK

Dated: November 8, 2001

1. <u>Kimberly A. Macias</u>	7. <u>Betty M. Falatko</u>
2. <u>Margaret E. Pader</u>	8. <u>Harold N. Rogers</u>
3. <u>Ken R. Lee</u>	9. <u>Paula Torres Reop</u>
4. <u>Cynthia M. Angel</u>	10. <u>Angela M. Shants</u>
5. <u>Marie L. Yekat Murphy</u>	11. <u>Carol J. Swanson</u>
6. <u>Dawn Haggard</u>	12. <u>Courtney M. Grome</u>

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

## VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find the Defendant, NATHANIEL E. JACKSON \* Guilty of Aggravated Murder (did purposely cause the death of Robert Fingerhut, while committing, attempting to commit, or fleeing immediately after committing Aggravated Burglary and/or Aggravated Robbery on December 11, 2001, in the manner and form as he stands charged in Count Two of the indictment.

\* INSERT "GUILTY" OR "NOT GUILTY" IN INK

Dated: November 8, 2002

1. Kimberly A. MacGinn
2. Margaret E. Dador
3. James R. Gee
4. Cynthia M. Angels
5. Kenneth L. Ghat-Murphy
6. Dawn Waggoner
7. Betty M. Falster
8. Harold N. Rogers
9. Paula Torres Reep
10. Angela M. Alants
11. Carol J. Larson
12. Courtney M. Gore

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ) CASE NO. 01-CR-794  
 )  
 Plaintiff )  
 ) VERDICT ON SPECIFICATION  
 vs. )  
 )  
 NATHANIEL E. JACKSON, ) SPECIFICATION #1 TO THE  
 ) SECOND COUNT OF THE  
 ) INDICTMENT  
 )  
 Defendant )

**\*\*TO BE COMPLETED IF, AND ONLY IF, YOUR FINDING ON THE CHARGE  
ON COUNT TWO, AGGRAVATED MURDER, IS GUILTY\*\***

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find and specify by proof beyond a reasonable doubt that the Defendant, NATHANIEL E. JACKSON, is  
\* Guilty of committing the offense of Aggravated Murder while he was committing, attempting to commit, or fleeing immediately after committing Aggravated Burglary and that the said NATHANIEL E. JACKSON was the principal offender in the commission of the Aggravated Murder, or committed the Aggravated Murder with prior calculation and design.

**\* INSERT "GUILTY" OR "NOT GUILTY" IN INK**

Dated: November 8, 2001

1. Theresa A. Marcini
2. Margaret E. Pader
3. Kim R. Lee
4. Cynthia M. Angelo
5. Wendie L. Hart-Muskey
6. Karen Haggard
7. Betty M. Galatis
8. Harold N. Rogers
9. Paula Torres Reep
10. Angela M. Olsanik
11. Carol J. Swanson
12. Courtney H. Goren

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ) CASE NO. 01-CR-794  
 )  
 Plaintiff ) )  
 ) VERDICT ON SPECIFICATION  
 VS. ) )  
 ) SPECIFICATION #2 TO THE  
 ) SECOND COUNT OF THE  
 ) INDICTMENT  
 )  
 NATHANIEL E. JACKSON, )  
 )  
 Defendant ) )

\*\*TO BE COMPLETED IF, AND ONLY IF, YOUR FINDING ON THE CHARGE  
ON COUNT TWO, AGGRAVATED MURDER, IS GUILTY\*\*

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find and specify by proof beyond a reasonable doubt that the Defendant, NATHANIEL E. JACKSON, is  
\* Guilty of committing the offense of Aggravated Murder while he was committing, attempting to commit, or fleeing immediately after committing Aggravated Robbery and that the said NATHANIEL E. JACKSON was the principal offender in the commission of the Aggravated Murder, or committed the Aggravated Murder with prior calculation and design.

\* INSERT "GUILTY" OR "NOT GUILTY" IN INK

Dated: November 8, 2001

1. Kimberly A. Mancini
2. Margaret E. Dade
3. Kim R. Lee
4. Cynthia M. Angel
5. Shawna West-Murphy
6. Dawn Waggoner
7. Betty M. Galatia
8. Harold N. Rogers
9. Paula Torres Reop
10. Angela M. DeSantis
11. Carol J. Swanson
12. Courtney M. Gore

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

## VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find the Defendant, NATHANIEL E. JACKSON\* Guilty of Aggravated Burglary on December 11, 2001, in the manner and form as he stands charged in Count Three of the indictment.

\* INSERT "GUILTY" OR "NOT GUILTY" IN INK

Dated: November 8, 2002

1. Kimberly A. Mancini
2. Margaret E. Paden
3. Kim R. Lee
4. Cynthia M. Angel
5. Sherrill Yakkat Murphy
6. Anna Haggard
7. Betty M. Falatko
8. Harold N. Rogers
9. Paula Correa Peep
10. Angeline Adams
11. Carol J. Swanson
12. Courtney M. Gore

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,	)	CASE NO. 01-CR-794
Plaintiff	)	
vs.	)	<b>VERDICT ON SPECIFICATION</b>
NATHANIEL E. JACKSON,	)	SPECIFICATION #1 TO THE THIRD COUNT OF THE INDICTMENT
Defendant	)	

**\*\*TO BE COMPLETED IF, AND ONLY IF, YOUR FINDING ON THE CHARGE  
ON COUNT ONE, AGGRAVATED BURGLARY, IS GUILTY\*\***

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find and specify that the Defendant, NATHANIEL E. JACKSON, \* Did have a firearm on or about the offender's person or under the person's control while committing the offense and displayed the firearm, brandished the firearm, indicated that the offender possessed the firearm, or used it to commit the offense of Aggravated Burglary.

**\* INSERT "DID" OR "DID NOT" IN INK**

Dated: November 8, 2002

1. Kimberly Mawcic
2. Margaret E. Bader
3. Kim R. Lee
4. Cynthia M. Angelo
5. Hebbie K. Yelat Murphy
6. Dawn L. Waggoner
7. Betty M. Fralatice
8. Harold N. Rogers
9. Paula Torres Reep
10. Angela M. Santos
11. Carol J. Swanson
12. Courtney M. Gore

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ) CASE NO. 01-CR-794  
Plaintiff )  
vs. ) COUNT FOUR:  
NATHANIEL E. JACKSON, ) INDICTMENT FOR  
Defendant ) AGGRAVATED ROBBERY

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find the Defendant, NATHANIEL E. JACKSON \* Guilty of Aggravated Robbery on December 11, 2001, in the manner and form as he stands charged in Count Four of the indictment.

\* INSERT "GUILTY" OR "NOT GUILTY" IN INK

Dated: November 8, 2002

1. Kimberly M. Bailey
2. Margaret E. Pader)
3. Kim R. Lee
4. Cynthia M. Angelo
5. Heenie S. Ghat-Murphy
6. Dawn Waggoner

7. Betty M. Falotico
8. Harold W. Rogers
9. Paula Torres Reep
10. Angela M. DeSantis
11. Carol J. Swanson
12. Courtney M. Gione

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,	)	Case No. 01-CR-794
vs.	)	<b>VERDICT ON SPECIFICATION</b>
Plaintiff	)	SPECIFICATION #1 TO THE
NATHANIEL E. JACKSON,	)	FOURTH COUNT OF THE
Defendant.	)	INDICTMENT

**\*\*TO BE COMPLETED IF, AND ONLY IF, YOUR FINDING ON THE CHARGE  
ON COUNT FOUR, AGGRAVATED ROBBERY, IS GUILTY \*\***

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find and specify that the Defendant, NATHANIEL E. JACKSON, \* Did have a firearm on or about the offender's person's control while committing the offense and displayed the firearm, brandished the firearm, indicated that the offender possessed the firearm, or used it to commit the offense of AGGRAVATED ROBBERY.

\* INSERT "DID" OR "DID NOT" IN INK

Dated: November 8, 2002

1. Kimberly Mancini
2. Margaret E. Paden
3. Jim R. Lee
4. Cynthia M. Angel
5. Heine S. Yact-Murphy
6. Dawn Waggoner

7. Betty M. Fralick
8. Harold N. Rogers
9. Paula Torres Rep
10. Angela M. Alantz
11. Carol J. Swanson
12. Courtney M. Goren

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,	)	CASE NO. 01-CR-794
	)	
Plaintiff	)	
	)	COUNT TWO:
vs.	)	LESSER INCLUDED OFFENSE:
	)	MURDER
	)	
NATHANIEL E. JACKSON,	)	
	)	
Defendant	)	

**\*\*TO BE COMPLETED IF, AND ONLY IF, YOUR FINDING ON THE CHARGE  
ON COUNT ONE, AGGRAVATED MURDER, IS NOT GUILTY OR YOU ARE  
UNABLE TO REACH A VERDICT ON THAT COUNT\*\***

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find the Defendant,  
NATHANIEL E. JACKSON, \* \_\_\_\_\_ of MURDER on December 11, 2001.

**\* INSERT "GUILTY" OR "NOT GUILTY" IN INK**

Dated: \_\_\_\_\_, 2002

1. \_\_\_\_\_

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,	)	CASE NO. 01-CR-794
	)	
Plaintiff	)	
	)	
vs.	)	<b>COUNT TWO:</b>
	)	<b>LESSER INCLUDED OFFENSE:</b>
	)	<b>MURDER - VOLUNTARY</b>
	)	<b>MANSLAUGHTER</b>
NATHANIEL E. JACKSON,	)	
	)	
Defendant	)	

**\*\*TO BE COMPLETED IF, AND ONLY IF, YOUR FINDING ON THE LESSER INCLUDED CHARGE ON COUNT ONE, MURDER, IS NOT GUILTY OR YOU ARE UNABLE TO REACH A VERDICT ON THAT COUNT\*\***

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find the Defendant, NATHANIEL E. JACKSON, \* \_\_\_\_\_ of **VOLUNTARY MANSLAUGHTER** on December 11, 2001.

**\* INSERT "GUILTY" OR "NOT GUILTY" IN INK**

Dated: \_\_\_\_\_, 2002

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,	)	CASE NO.01-CR-794
	)	
Plaintiff	)	
	)	
vs.	)	<b>COUNT ONE:</b>
	)	<b>LESSER INCLUDED OFFENSE:</b>
	)	<b>MURDER</b>
	)	
NATHANIEL E. JACKSON,	)	
	)	
Defendant	)	

**\*\*TO BE COMPLETED IF, AND ONLY IF, YOUR FINDING ON THE CHARGE  
ON COUNT ONE, AGGRAVATED MURDER, IS NOT GUILTY OR YOU ARE  
UNABLE TO REACH A VERDICT ON THAT COUNT\*\***

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find the Defendant,  
NATHANIEL E. JACKSON, \* \_\_\_\_\_ of **MURDER** on December 11, 2001.

**\* INSERT "GUILTY" OR "NOT GUILTY" IN INK**

Dated: \_\_\_\_\_, 2002

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,	)	CASE NO.01-CR-794
	)	
Plaintiff	)	
	)	
vs.	)	<b>COUNT ONE:</b>
	)	<b>LESSER INCLUDED OFFENSE:</b>
	)	<b>MURDER - VOLUNTARY</b>
	)	<b>MANSLAUGHTER</b>
NATHANIEL E. JACKSON,	)	
	)	
Defendant	)	

**\*\*TO BE COMPLETED IF, AND ONLY IF, YOUR FINDING ON THE LESSER INCLUDED CHARGE ON COUNT ONE, MURDER, IS NOT GUILTY OR YOU ARE UNABLE TO REACH A VERDICT ON THAT COUNT\*\***

VERDICT

We, the Jury in this case, duly impaneled and sworn or affirmed, find the Defendant, NATHANIEL E. JACKSON, \* \_\_\_\_\_ of **VOLUNTARY MANSLAUGHTER** on December 11, 2001.

**\* INSERT "GUILTY" OR "NOT GUILTY" IN INK**  
Dated: \_\_\_\_\_, 2002

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

) CASE NO. 01-CR-794

Plaintiff,

) **COUNT ONE:**

-vs-

) **JURY FINDING AND  
RECOMMENDATION  
OF DEATH SENTENCE**

NATHANIEL E. JACKSON,

)

Defendant.

)

VERDICT

We, the Jury, being duly impaneled and sworn or affirmed, do hereby find that the aggravating circumstances that the Defendant, Nathaniel E. Jackson, was found guilty of committing with reference to the death of Robert S. Fingerhut, outweigh, by proof beyond a reasonable doubt, the mitigating factors presented in this case. We, therefore, find and recommend that the sentence of death be imposed upon the Defendant, Nathaniel E. Jackson.

DATED: November 15, 2002

1. Kimberly Mancini  
2. Margaret E. Dader  
3. Bern R. Lee  
4. Cynthia M. Angelo  
5. Shirley L. Yatko-Musky  
6. Dawn Waggoner

7. Betty M. Gatzke  
8. Harold V. Rogers  
9. Paula Torres Reep  
10. Angela M. Desantis  
11. Carol J. Swanson  
12. Courtney M. Crone

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278

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO, )  
Plaintiff, ) CASE NO. 01-CR-794  
-vs- )  
Nathaniel E. Jackson, ) **COUNT ONE:**  
Defendant. ) JURY FINDING AND  
 ) RECOMMENDATION  
 ) OF LIFE SENTENCE  
 )

VERDICT

We, the Jury, being duly impaneled and sworn or affirmed, do hereby find that the State has not proved that the aggravating circumstances that the Defendant, Nathaniel E. Jackson, was found guilty of committing with reference to the death of Robert S. Fingerhut, outweigh, by proof beyond a reasonable doubt, the mitigating factors presented in this case, or that the jury is unable to reach a unanimous verdict recommending the sentence of death. We, therefore, find and recommend that the following sentence be imposed upon the Defendant, Nathaniel E. Jackson:

(Place an "X" in the appropriate space in accordance with your finding.)

Life imprisonment without parole eligibility.

Life imprisonment with parole eligibility after 30 full years of imprisonment.

Life imprisonment with parole eligibility after 25 full years of imprisonment.

DATED: November \_\_\_\_\_, 2002

1. \_\_\_\_\_

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## COURT REPORTER'S REPORT

**RE: BILLING OF COURT COSTS**

CASE NO.: 2001-CR-794

I, Kelly J. Wilson, do hereby certify that I was the Court Reporter in the above-captioned case, and a record of proceedings was taken on the following day(s):

NOVEMBER 4, 5, 6, 7 AND 8, 2002

The Clerk shall collect court costs for 5 days at the rate of \$25.00 per day for a total of \$125.00.

DATE: 11-19-02

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KELLY J. WILSON  
OFFICIAL COURT REPORTER

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IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY OHIO

STATE OF OHIO,	)	CASE NO. 01-CR-794
	)	
Plaintiff,	)	JUDGE JOHN M. STUARD
	)	
-vs-	)	<b>OPINION OF THE COURT</b>
	)	
NATHANIEL E. JACKSON,	)	<b>FINDINGS OF FACT AND</b>
	)	<b>CONCLUSIONS OF LAW REGARDING</b>
Defendant.	)	<b>IMPOSITION OF DEATH PENALTY</b>

On November 8, 2002, a Trumbull County Jury returned a verdict finding the Defendant, Nathaniel E. Jackson, guilty of two (2) counts of Aggravated Murder arising from the death of Robert S. Fingerhut. Since Count One and Count Two of the Indictment merge for sentencing purposes, the State elected to dismiss Count Two and proceed to the mitigation phase on the first count of the indictment. Therefore, for purposes of this opinion, the Defendant was convicted, under the first count of the indictment, of purposely, and with prior calculation and design, causing the death of Robert S. Fingerhut. The jury further found that the State had proved beyond a reasonable doubt two (2) specifications of aggravating circumstances. After the mitigation hearing, the jury concluded that the State had proved beyond a reasonable doubt that the aggravating circumstances outweighed the mitigating factors and returned a verdict recommending that the sentence of death be imposed upon the Defendant.

Factually, the evidence revealed that while the Defendant was in prison for a prior conviction unrelated to the present case, he along with the Co-Defendant, Donna Roberts, who is presently awaiting trial for her involvement, plotted the murder of her house mate, and ex-husband, Robert S. Fingerhut. Indeed, both of them concocted a plan to kill Fingerhut to permit

the Defendant and Roberts to live happily ever after. However, the plan went awry when Jackson, who was in the house where Fingerhut stayed, was shot in the left index finger during the execution of Fingerhut. He then took Fingerhut's car keys, and drove the vehicle which Fingerhut typically operated to Youngstown. Shortly thereafter, Roberts took the Defendant to a motel in Boardman, getting him a room where he could hide out. Ultimately, the Defendant was captured at a home in Youngstown, and he gave a statement to the police alleging self-defense.

More specifically, the State introduced evidence that on December 11, 2001, two (2) days after the Defendant was released from prison, Robert S. Fingerhut, while in his home, was pistol whipped, and shot three(3) times, causing at least four (4) injuries from gun shots. Two of the injuries were to the back, with one grazing the back, and the other entering near the shoulder before exiting out the chest area of the victim. Fingerhut also sustained a defensive gun shot wound to the webbing of his left hand between the thumb and forefinger. The fatal gun shot was to the top of the head and from a short distance. This injury would "would have dropped him like a sack of potatoes," as testified to by Dr. Germaniuk.

Police responded to the crime scene as a result of a 911 call. When they arrived at approximately 12:01 a.m., they were met by the Co-Defendant, who informed them that her husband's car was missing. She also granted them permission to search the residence and her car. During this search, police found more than 140 letters from the Defendant to Roberts in her dresser, and an equal number of letters from Roberts to the Defendant, in the trunk of the Co-Defendant's car, in a paper bag bearing the Defendant's name and prison number.

Additionally, law enforcement officers were able to obtain nineteen (19) telephone

conversations, lasting more than three (3) hours, which were recorded while the Defendant was incarcerated in Lorain Correctional Institution. These telephone conversations, along with the letters which spanned three (3) months, revealed a continuing and evolving plan to kill Fingerhut immediately upon the Defendant's release from prison.

Specifically, during these telephone conversations, and in the written letters, the Defendant requested that Roberts obtain for him, black gloves to conceal his fingerprints, a ski mask, and a pair of handcuffs. Further, the Defendant, during the December 8, 2001, telephone conversation, which was recorded the day before he was discharged from Lorain, and three (3) days before the murder, stressed to Roberts that he "need[ed] to be in the house [in which Fingerhut lived] before he [got] home" in order to carry out the premeditated murder. Roberts, in a letter written to the Defendant acknowledged that she has found thin, fleece line, leather gloves, but was still looking for the ski mask.

Indeed, the State introduced black leather gloves with fleece lining which were recovered from the house where the Defendant was arrested. These gloves, which had gun shot residue on them, had a hole in the left index finger, and a reddish substance which appeared to be blood was also observed in that same area. This damaged matched the injury that the Defendant had sustained to his finger. Although the actual handcuffs were never recovered by police, an empty handcuff box was found in Donna Robert's car.

The evidence also revealed that Roberts, near the time of the murder, was seen driving her automobile in a very slow manner away from the vicinity of the home where Fingerhut lived. Furthermore, within two (2) hours from the last time Fingerhut was seen alive, Roberts rented a hotel room for the Defendant. In this room, bloody bandages and other medical supplies were

found by hotel cleaning people and were subsequently collected by police.

The car which was usually driven by Fingerhut, and which had been reported stolen by the Co-Defendant the night of Fingerhut's murder was recovered in Youngstown, Ohio. Blood stains were located throughout the vehicle and were collected by law enforcement. DNA analysis revealed that the blood matched that of DNA profile of the Defendant.

The State also introduced evidence that Roberts and the Defendant discussed purchasing a "new Lincoln" or "2002 Cadillac DeVille" for the Defendant. Additionally, Fingerhut had two (2) life insurance policies with a total death benefit of \$550,00.00, and with Donna Roberts named as the beneficiary.

Based upon this and other evidence, the jury properly concluded that the Defendant committed a burglary to facilitate the premeditated and purposeful murder of the victim Fingerhut along with Roberts. The Defendant after executing his plan then stole Fingerhut's vehicle which allowed the jury to find that the murder was committed while committing the aggravating circumstances of Aggravated Burglary and Aggravated Robbery.

In a case of this nature, pursuant to R.C. 2929.03(D)(3), the Court is required to determine whether the State has proved beyond a reasonable doubt that the aggravating circumstances outweigh the mitigating factors. Indeed, the Supreme Court of Ohio has stated in *State v. Wogenstahl* (1996), 75 Ohio St. 3d 344:

"[T]he nature and circumstances of the offense may only enter into the statutory weighing process on the side of mitigation. \*\*\* [I]n the penalty phase of a capital trial, the 'aggravating circumstances' against which the mitigating evidence is to be weighed are limited to the specifications of aggravating circumstances set forth in R.C. 2929.04(A)(1) through (8) that have been alleged in the indictment and proved beyond a reasonable doubt." *Wogenstahl* (1996), 75 Ohio St. 3d 344 at 356.

In performing its statutory duty, the a review of the aggravating circumstances is required.

- 1.) *The Defendant committed the Aggravated Murder while he was committing, attempting to commit, or fleeing immediately after committing Aggravated Burglary and that he was the principal offender.*

The evidence presented at trial reflected that the Defendant trespassed in the victim's dwelling and murdered him. The Court finds that the Defendant entered into 254 Fonderlac Drive, in Howland Township. He was wearing gloves and armed with a gun, with which he struck the victim leaving a mark on Fingerhut's face. Once in the house, he fired the gun three times causing four (4) separate wounds. The fatal shot was to the top of Fingerhut's head, and nearly straight down.

From the aforementioned evidence, the Jury concluded that the defendant committed the Aggravated Murder of while he was committing, attempting to commit, or fleeing immediately after committing Aggravated Burglary and that he was the principal offender.

- 2.) *The Defendant committed the Aggravated Murder while he was committing, attempting to commit, or fleeing immediately after committing Aggravated Robbery and that he was the principal offender.*

After the Defendant had murdered the victim, he took the victim's car keys and his car. As he was driving away from the crime scene, and prior to abandoning the vehicle in Youngstown, he left blood evidence throughout the car. This evidence was subjected to DNA testing, which confirmed that forensically, it was his blood. Quite simply, the Defendant committed the Aggravated Robbery to escape the consequences of his prior murderous act.

This evidence permitting the jury to conclude that the Defendant committed the Aggravated Murder while he was committing, attempting to commit, or fleeing immediately after committing Aggravated Robbery and that he was the principal offender.

To be weighed against the aggravating circumstances are the mitigating factors. In this case, the following factors were considered by the Court as possible mitigation against each specification and against the imposition of the death penalty:

- 1.) *The nature and circumstances of the offense, the history, character, and background of the offender.*

As was noted in *Wogenstahl, supra*, the nature and circumstances of the offense may only enter into the statutory weighing process on the side of mitigation. However, in this case, reviewing the nature and circumstances, the Court does not find any credible evidence which would allow the Court to accord any weight to the nature and circumstances of the offense against the imposition of the death penalty.

In considering the history, character and background of the offender, this Court considered the home life of the Defendant and the fact that he grew up in a relatively poor environment, and that he was cared for and raised by his mother and maternal grandmother. His biological father had little, if any, real involvement with him, and this lack of a father figure likely contributed to his behavioral problems .

Though the Court gives some weight to the Defendant's upbringing, it deserves little weight because of the credible testimony from the Defendant's step-father, his sister, his mother, and Dr. McPherson. These witnesses testified that the Defendant was respectful to both his mother and grandmother. His sister, who described as smart and really kind, noted that they

attended church. Further, there was testimony offered that he was reared in an environment, where he was not physically or sexually abused. His mother also declined to say that his home was in a "rough neighborhood, or that the Defendant had any problems in school. Dr. McPherson's report noted that the Defendant had not been hospitalized for any physical or mental condition. The witnesses also noted that they practiced moral tenets and that responsibility and respect were taught.

In conclusion, from the testimony of these witnesses, there is nothing particularly evident to show an unusual childhood or to offer an explanation for the Defendant's behavior which would be entitled any significant weight on the side of mitigation.

2.) *Whether the victim of the offense induced or facilitated the killing.*

Although under R.C. 2929.04(B)(1), the mitigating factor regarding whether the victim of the offense induced or facilitated it was not specifically argued by the Defendant during the penalty phase of the trial as mitigating, the Court did consider the Defendant's video taped statement presented in evidence during the trial phase. In the self-serving statement, the Defendant claimed that the killing of the victim was as a result of the Defendant protecting himself from an unprovoked attack by the victim.

This statement to the police attempted to construct a scenario wherein the victim approached the Defendant to purchase marijuana and then invited the Defendant into his home. The Defendant then claims that the victim then pulled a gun on him. The Defendant asserted that he attempted to disarm the victim, but the gun went off apparently striking the victim. However, the other facts illustrating the planning and execution of the murder along with the physical evidence introduced causes the Defendant's version not to be credible. As such, the

Court does not accord any weight to this mitigating factor.

3.) *Whether it is unlikely that the offense would have been committed, but for the fact that the offender was under duress, coercion, or strong provocation.*

Again, while the Defendant did not specifically argue this mitigating factor, the Court, upon reviewing the video tape, noticed that the Defendant claimed that the victim made derogatory statements about the Defendant's race which angered the Defendant. However, the this comment is likewise not convincing for the same reasons noted previously. This mitigating factors has no weight.

4.) *Any other factors that are relevant to the issue of whether the offender should be sentenced to death.*

Under R.C. 2929.04 (B)(7), commonly referred to as the "catch all provision" the Court reviewed the Defendant's capacity to appreciate the criminality of his conduct in light of the defense expert testimony regarding his mental history and mental state at the time of the offense was considered as a possible factor under R.C. 2929.04(B)(3).

This testimony revealed that the Defendant suffered from Attention Deficit Disorder/Hyperactivity Disorder, Chemical Dependency, and a reported history of alcohol abuse. Further, the evidence disclosed that the Defendant had an Antisocial Personality Disorder and was considered low average or better in intelligence.

Significantly, however, there was no evidence presented that the Defendant, at the time of the offense, had any mental disease or defect or that he lacked the capacity to appreciate the criminality of his conduct. His Antisocial Personality Disorder only showed that he had a history of inappropriate and impulsive behavior from his early childhood to the present. He was

incarcerated four (4) times. According to the Defendant's own expert, the Defendant, throughout his juvenile and adult life had received repeated treatment and/or probation for his criminal transgressions and his drug and alcohol abuse. He did not learn from his past mistakes, but only escalated his antisocial conduct.

In summary, this Court gives very little weight in mitigation to the Defendant's mental status, and his drug and alcohol abuse history especially in light of the Defendant's elaborate scheme to kill the victim, elude capture, and finally deceive police officers with a statement blaming the victim.

Further under 2929.04(B)(7), the Court examined the Defendant's ability to maintain himself in a stable fashion in a structured setting. Indeed, it was suggested by the Defense that he could be a productive member of the general prison population, and that this should be considered as mitigating. However , the Court gives slight weight to this particular factor.

The Defendant's last incarceration was the result of him not learning from his past mistakes, and from his tendency to act out impulsively without looking at the consequences. Furthermore, he repeatedly was placed on probation, but he continued to digress, committing more serious criminal acts. Indeed, during the last incarceration, the Defendant claimed to have "found God" and that he was going to straighten out his life. At the same time, it is abundantly clear that he was plotting to commit the ultimate criminal act, a premeditated burglary and murder, while pre-textually presenting himself to prison officials as a good candidate for a release program. Quite simply, in the very setting in which the Defense suggests that he could be a productive member, the Defendant defined and refined a plot, involving gloves, a mask and handcuffs, to murder Robert S. Fingerhut so that in effect he could assume Fingerhut's lifestyle,

including running the Greyhound bus business, managing rental properties, and living in his home with his ex-wife.

The Defendant also offered an unsworn statement, wherein he stated that he was "very sorry for what happened." The Court likewise gives this statement slight weight as the statement lacked sincerity. The tone and tenor of the apology did not, in the Court's opinion, come from someone who was genuinely remorseful. Even assuming that the Defendant was remorseful, such retrospective remorse is not entitled to any significant weight. To the contrary, the Court believes that the Defendant's feigned remorse stems from the fact that the Defendant was apprehended. The Defendant was disappointed that the fool-proof, premeditated murder plot ,which he developed over nearly three (3) months, and which included shooting the victim "in the 'F' ing head," failed.

When independently weighing the aggravating circumstances as to the Aggravated Murder as previously outlined against the collective factors in mitigation, this Court finds that the aggravating circumstances not only outweigh the mitigating factors by proof beyond a reasonable doubt, but in fact, they almost completely overshadow them.

The State of Ohio has recognized that under certain circumstances, the death penalty is an appropriate sanction to any defendant who commits an Aggravated Murder during the commission of these certain felonies. In the case at bar, the underlying felonies are Aggravated Burglary and Aggravated Robbery.

In this particular case, the Court accords substantial weight to the Aggravated Burglary specification. In order to prove an Aggravated Burglary, the State is required to demonstrate that the Defendant trespassed in the occupied structure for the purpose of committing a criminal

act. In most instances, this criminal act is a theft offense. Occasionally, a Defendant will trespass to commit a kidnapping or even a rape. Such criminal acts provide the basis upon which a Defendant can be convicted of Aggravated Burglary. Then, if during any of these underlying criminal acts, the victim is purposely killed, an Aggravated Murder with the specification of Aggravated Burglary has been committed. These alone can permit the imposition of the death penalty should the aggravating circumstance of the Aggravated Burglary be found to outweigh the mitigating factors.

Under the facts in the instant case, this Court can not foresee of any other form of Aggravated Burglary where the weight to be given to this aggravating circumstance could ever be greater. The evidence reveals that the sole purpose for the Defendant's illegal entry in the Fingerhut residence was not to commit a theft, a kidnapping or a rape, but to rather to carry out the premeditated, cold blooded execution Robert S. Fingerhut. This is the most heinous form of Aggravated Burglary, and it is entitled to unsurpassed weight. Further, in this Court's view, this aggravating circumstance, standing alone, outweighs all of the evidence presented in mitigation.

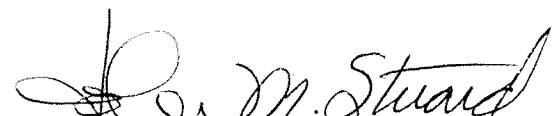
The Court further gives weight to the Aggravated Robbery specification. After shooting the Defendant in the head, the Defendant took personal property of the victim to effectuate his escape. Indeed, the Defendant stole the victim's keys and his car.

Against this backdrop, the mitigating factors of the Defendant's background, history and character, his Antisocial Personality Disorder, his Attention Deficit Disorder, his history of drug and alcohol abuse, as well as his unsworn statement, have very little effect in minimizing, lessening, or excusing the degree of the Defendant's murderous conduct. From the

overwhelming evidence, it is this Court's opinion that the Defendant and the Co-Defendant plotted the murder of Robert S. Fingerhut solely to collect \$550,00.00 in insurance proceeds. This was accomplished by trespassing in the residence where Fingerhut resided, for the sole purpose of ambushing and murdering him.

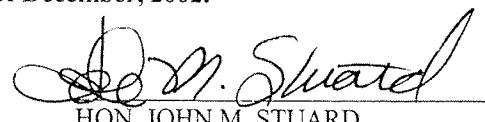
Upon consideration of the relevant evidence raised at trial, the relevant testimony, the other evidence, the unsworn statement of the defendant, and the arguments of counsel, it is the judgment of this Court that the aggravating circumstances, outweighed, by proof beyond a reasonable doubt, the collective mitigating factors.

Dated: 12/9/02



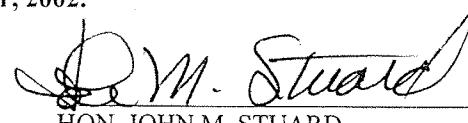
HON. JOHN M. STUARD  
Judge, Court of Common Pleas

I hereby certify that a copy of the foregoing opinion was hand delivered to Attorney James Lewis, Attorney Anthony Consoldane, and Prosecutor Dennis Watkins this 9<sup>th</sup> day of December, 2002.



HON. JOHN M. STUARD

I also hereby certify that a copy of the foregoing opinion was duly mailed by ordinary U.S. Mail to the Clerk of the Supreme Court, Supreme Court of Ohio, State Office Tower, 30 E. Broad Street, Columbus, Ohio 43266-0419, this 9<sup>th</sup> day of December, 2002.



HON. JOHN M. STUARD

STUDY OF THE  
COURT OF APPEALS  
OF THE STATE OF OHIO  
12/9/02 4:46 AM '02

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff,

-vs-

NATHANIEL JACKSON,

Defendant.

) Case No 01-CR-794

) ) Judge John Stuard

) ) MOTION FOR PAYMENT  
Defendant. ) OF EXPERT FEES

Now comes the Defendant, NATHANIEL JACKSON, by and through his counsel, Attorneys Anthony V. Consoldane and James F. Lewis, of the Trumbull County Branch Office of the Ohio Public Defender's Commission and moves the Court for payment of expert fees incurred in the Defense of this matter.

Said fees have been approved by the Court by previous Judgment Entry and were reasonable and necessary for the Defense.

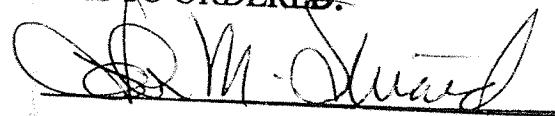
WHEREFORE, the Defendant requests that Dr. Sandra B. McPherson, Ph.D., of 12434 Cedar Road, Suite 15, Cleveland Heights, Ohio, 44106, be paid \$7,012.50 for the psychological testing and assessment, and consultations in preparation for the defense.

Respectfully submitted,

  
DAVID H. BODIKER #0016590  
OHIO PUBLIC DEFENDER

  
ANTHONY V. CONSOLDANE #0000761  
ASSISTANT STATE PUBLIC DEFENDER

IT IS SO ORDERED:

  
JUDGE JOHN M. STUARD



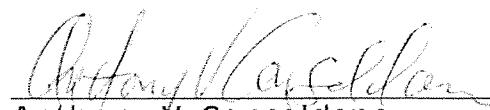
JAMES F. LEWIS #0024314  
ASSISTANT STATE PUBLIC DEFENDER

BRANCH OFFICE OF THE OHIO PUBLIC DEFENDER  
328 Mahoning Avenue  
Warren, Ohio 44483  
(330)393-7727 FAX (330)393-7076

COUNSEL FOR NATHANIEL JACKSON

CERTIFICATION

I hereby certify that a copy of the foregoing Motion was delivered to the Trumbull County Prosecutor's Office, 160 High Street, Warren, Ohio, 44481, this 10<sup>th</sup> day of November, 2002.



Anthony V. Consoldane  
Anthony V. Consoldane  
Attorney for Defendant

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO

CASE NO. 01-CR-794

vs.

Nathaniel E. Jackson

POST SENTENCING RIGHTS

Defendant

I, I, \_\_\_\_\_, the Victim or Victim's Representative, was present in Court for the sentencing of Nathaniel E. Jackson. I realize that I have the following rights:

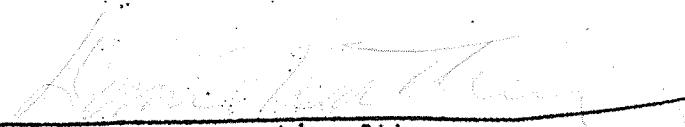
1. The right to notification by the Ohio Adult Parole Authority if the defendant becomes eligible for parole, shock parole or early release. And, further, that it is my responsibility to notify the Ohio Adult Parole Authority that I want such notification. In order to receive notification, I understand that I must write the Ohio Adult Parole Authority, 1050 Freeway Drive, Columbus, OH 43229, Phone: (614) 431-3221, and request notification. Further, I understand that it is my responsibility to notify the Ohio Adult Parole Authority of any change in my address or phone number.
2. I also have the right to be notified by the Trumbull County Common Pleas Court in advance should the Court consider granting shock probation to the defendant. It is my responsibility to notify the Victim/Witness Division, located at the Trumbull County Courthouse, 2nd Floor, 160 High St., Warren, OH 44481, Phone: (330) 675-2551, of any change in my address or phone number.

FILED  
COMMON PLEAS COURT  
TRUMBULL COUNTY, OHIO

DEC 2 2007  
MARGARET R. GRIFFIN, CLERK

Signature of Victim or  
Victim's Representative

III. The Victim or Victim's Representative in this case has been previously notified of his or her rights under the Ohio Revised Code concerning Ohio Victims of Crime. The Victim or Victim's Representative was notified of the sentencing date and elected not to appear in Court.

  
Assistant Prosecuting Attorney

W A R R A N T   T O   C O N V E Y

CORRECTION RECEPTION CENTER  
REVISED CODE, SEC. 2949.12 TO .17

COURT OF COMMON PLEAS, TRUMBULL COUNTY, WARREN, OHIO

STATE OF OHIO

CASE NO. 2001 CR 00794

VS.

**NATHANIEL E JACKSON**

TO THE SHERIFF OF SAID COUNTY:

WHEREAS, our said Court, begun and held at Warren, Ohio in said county, on DECEMBER 9 2002, the said Defendant

**NATHANIEL E JACKSON**

was indicted for:

**AGGRAVATED MURDER**

and was sentenced by the Court to the CORRECTION RECEPTION CENTER.

YOU ARE THEREFORE HEREBY COMMANDED, to take charge of and convey the said

**NATHANIEL E JACKSON**

to the CORRECTION RECEPTION CENTER at LORAIN OHIO.

and make due return of your proceeding herein to this office forthwith.

IN TESTIMONY WHEREOF, I have hereunto  
set my hand and affixed the seal of said  
Court at Trumbull County, Warren, Ohio this  
December 10, 2002  
MARGARET R. O'BRIEN, Clerk of Courts

By Rochelle Ryan

Deputy Clerk

00794

CASE NO. 2001 CR 00794

RETURN

=====

TRUMBULL COUNTY COMMON PLEAS COURT

Trumbull County, Warren, Ohio

=====

STATE OF OHIO

vs.

NATHANIEL E JACKSON

=====

WARRANT TO CONVEY

=====

RETURNED AND FILED

20\_\_\_\_\_

MARGARET R. O'BRIEN, Clerk of Courts

By \_\_\_\_\_

DEPUTY CLERK

Received this writ on the 11 day of  
December, 2002

at 8:04 o'clock A.M., and on the  
11<sup>th</sup> day of December, 2002

I executed the same by conveying the  
person named to the place designated.

as shown by the receipt endorsed hereon

K. L. O'Brien  
SHERIFF

Juan Freeman  
DEPUTY

*	FEES	*
*	<u>24.90</u>	*
*	MILEAGE	\$ <u>24.90</u>
*	<u>0.00</u>	*
*	SERVICE	\$ <u>0.00</u>
*	<u>0.00</u>	*
*	OTHER	\$ _____
*		*
*		\$ _____
*		*

*	TOTAL	\$ <u>24.90</u>	*
*		*	*

LORCI, OHIO

12-11-02

Received this day, from \_\_\_\_\_

\_\_\_\_\_ Sheriff of \_\_\_\_\_  
County, Ohio the  
prisoner named in the within warrant.

K. L. O'Brien - Adams  
Superintendent

**EXECUTION FOR COSTS IN FELONY**

Revised Code, Sec.2949.15

\* \* \* \* \*

Case No. 2001 CR 00794

**The State of Ohio, Trumbull, County. Common Pleas Court**

**To the Sheriff of said County:**

**You are Hereby Commanded,** That of the goods and chattels, and for want thereof, then of the lands and tenements of

**NATHANIEL E JACKSON**

in your County, whereof HE was convicted, as appears of record, with interest thereon from the first day of the term aforesaid; also you cause to be made the costs of execution and increase costs that accrue.

Hereof fail not, but of this writ and your proceedings endorsed hereon, make due return, within ten days from the date hereof.

WITNESS my hand and the seal of said Court.

at Warren, Ohio, this

December 10, 2002

**MARGARET R. O'BRIEN**  
Clerk of Courts

By Rochelle Ryan  
Deputy

*h → b m*

CASE NO. 2001 CR 007S

=====

TRUMBULL COUNTY COMMON PLEAS COURT

Trumbull County, Warren, Ohio

=====

STATE OF OHIO

vs.

NATHANIEL E JACKSON

=====

EXECUTION FOR COSTS

=====

RETURN

Received this writ on the 10 day of  
Dec, 2008  
at 105 o'clock A.M., and on the  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

JK Attala  
SHERIFF

JK Attala  
DEPUTY

*	FEES	*
*		*
*	MILEAGE \$ <u>5</u>	*
*	SERVICE \$ <u>5</u>	*
*	OTHER \$ _____	*
*	\$ _____	*
*		*
*	TOTAL \$ <u>5</u>	*
*		*

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

) CASE NO. 01-CR-794

Plaintiff

)

)

) DEATH PENALTY

)

-vs-

) SENTENCE TO CORRECTIONAL  
RECEPTION CENTER

NATHANIEL E. JACKSON,

)

) ENTRY ON SENTENCE

Defendant

)

12/35/02  
The Defendant herein having been indicted by the September Eighth, 2001, Term of the Grand Jury of Trumbull County, Ohio, for Count One: Aggravated Murder (O.R.C. §§2903.01(A) and 2941.14(C)) of Robert S. Fingerhut, with two (2) separate Specifications of Aggravating Circumstances, to wit: Specification No. 1: Aggravated Burglary (O.R.C. §2929.04(A)(7)), and Specification No. 2: Aggravated Robbery (O.R.C. 2929.04(A)(7)); Count Two: Aggravated Murder (O.R.C. §§2903.01(B)) and 2941.14(C)) of Robert S. Fingerhut, with two (2) separate Specifications of Aggravating Circumstances, to wit: Specification No. 1: Aggravated Burglary (O.R.C. §2929.04(A)(7)), and Specification No. 2: Aggravated Robbery (O.R.C. §2929.04(A)(7)); Count Three: Aggravated Burglary (F1) With Firearm Specification (O.R.C. §2911.11(A)(1)(2) and 2941.145); and Count Four: Aggravated Robbery (F1) With Firearm Specification (O.R.C. §2911.01(A)(1)(3) and 2941.145), and on the 8th day of October, 2002, having been brought into Court for trial before a petit jury and being represented by counsel, Attorney Anthony Consoldane and Attorney James Lewis, and the jury having been empaneled,

and after due deliberation on November 8, 2002, was found guilty of Count One: Aggravated Murder (O.R.C. §§2903.01(A) and 2941.14(C)) of Robert S. Fingerhut, with two (2) separate Specifications of Aggravating Circumstances, to wit: Specification No. 1: Aggravated Burglary (O.R.C. §2929.04(A)(7)), and Specification No. 2: Aggravated Robbery (O.R.C. §2929.04(A)(7)); Count Two: Aggravated Murder (O.R.C. §§2903.01(B) and 2941.14(C)) of Robert S. Fingerhut, with two (2) separate Specifications of Aggravating Circumstances, to wit: Specification No. 1: Aggravated Burglary (O.R.C. §2929.04(A)(7)), and Specification No. 2: Aggravated Robbery (O.R.C. 2929.04(A)(7)); Count Three: Aggravated Burglary (F1) With Firearm Specification (O.R.C. §2911.11.(A)(1)(2) and 2941.145); and Count Four: Aggravated Robbery (F1) With Firearm Specification (O.R.C. §2911.01(A)(1)(3) and 2941.145). Thereafter, Count Two was removed from the Jury pursuant to a Motion to Dismiss by the State.

On November 14, 2002, the Defendant having been brought into Court to give evidence in mitigation on Count One of the indictment, and after arguments of counsel and instructions of law, and after due deliberation, it was the finding and recommendation of the Jury on November 15, 2002, that the sentence of death be imposed on the Defendant.

On December 9, 2002, Defendant's sentencing hearing was held pursuant to O.R.C. Section 2929.19. Defense Attorney Anthony Consoldane and Attorney James Lewis, and Prosecutor Dennis Watkins and Assistant Prosecutor Charles L. Morrow, were present, as was Defendant who was afforded all rights pursuant to Criminal Rule 32. The Court has considered the record and oral statements, as well as the principles and purposes of sentencing under O.R.C. Section 2929.11, and has balanced the seriousness and recidivism factors of O.R.C. Section 2929.12.

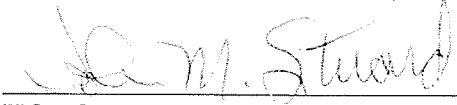
Pursuant to law, the Trial Court this day, December 9, 2002, having determined in a separate opinion of specific findings that the aggravating circumstances as to the count of Aggravated Murder outweigh the mitigating factors by proof beyond a reasonable doubt, then made inquiry as to whether the Defendant had anything to say why judgment should not be pronounced against him, and the Defendant in answer showed no good cause or sufficient reason why sentence should not be pronounced.

The Court has considered the factors under O.R.C. §2929.14, and makes the following findings: (1) the shortest prison term will demean the seriousness of the Defendant's conduct; (2) the longest prison term is appropriate because the defendant committed the worst form of the offense; (3) multiple prison terms are necessary to protect the public from future crime and to punish the offender; (4) consecutive prison sentences are not disproportionate to the seriousness of the Defendant's conduct and to the danger the offender poses to the public; (5) the harm caused by the multiple offenses was so great that no single prison term for any of the offenses committed as part of a single course of conduct adequately reflects the seriousness of the defendant's conduct; and (6) the defendant's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the defendant.

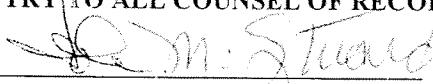
It is therefore ORDERED, ADJUDGED, and DECREED that the Defendant, NATHANIEL E. JACKSON, be taken from the courtroom to the Trumbull County Jail and from thence to the Correction Reception Center at Lorain, Ohio, and thereafter be sentenced to death on December 10, 2003 on Count One; and imprisoned therein for the stated prison term of ten (10) years on Count Three; plus a mandatory term of three (3) years on the Firearm Specification to be served prior to and consecutive to the sentence imposed in Count Three; ten (10) years on

Count Four, plus a mandatory term of three (3) years on the Firearm Specification to be served prior to and consecutive to the sentence imposed in Count Four, sentence in Count Four to be served consecutively to the sentence imposed on Count Three. Firearm Specifications in Count Three and Count Four shall merge as one sentence in Count Three as a matter of law. Defendant is Ordered to pay the cost of prosecution taxed in the amount \$ \_\_\_\_\_ for which execution is awarded.

12/10/02  
DATED

  
HONORABLE JOHN M. STUARD  
JUDGE, COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

THE CLERK OF COURTS IS HEREBY  
ORDERED TO SERVE COPIES OF THIS  
ENTRY TO ALL COUNSEL OF RECORD

  
JUDGE

12/10/02 -  
Copies sent to:  
Pros.  
A. Consolacion  
Supreme Court of Ohio

You are hereby notified that you have been convicted of a felony of violence and pursuant to Section 2923.13 of the Ohio Revised Code, you are prohibited from acquiring, having, carrying or using any firearm or dangerous ordinance.

6688 876

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO,	)	CASE NO. 01-CR-794
	)	
Plaintiff	)	
	)	<b>DEATH PENALTY</b>
	)	
-vs-	)	WRIT TO CONVEY PRISONER
	)	FOR EXECUTION OF PENALTY
NATHANIEL E. JACKSON,	)	
	)	
Defendant	)	

A Writ is hereby directed to Thomas Altieri, Sheriff of Trumbull County, Ohio for conveyance of NATHANIEL E. JACKSON to the Correctional Reception Center at Lorain, Ohio, and deliverance to its warden. Said Writ is issued pursuant to Section 2949.21 of the Ohio Revised Code for the execution of the death penalty against Nathaniel E. Jackson on December 10, 2003.

12/10/02  
DATED

  
HONORABLE JOHN M. STUARD  
JUDGE, COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

00888 877

## REQUEST FOR COURT PAID EXPERTS AND/OR EXPENSES

In the Trumbull County Court of Common Pleas Warren, Ohio.  
Plaintiff: Case No. 01-CR-794  
Attorney(s) for the Defendant/Party Represented:  
v. Nathaniel Jackson Attorney Anthony V. Consoldane  
Defendant/Party Represented  
In re: Attorney James F. Lewis

## CHARGES

OFFENSE/CHARGE/MATTER	ORC/CITY CODE	DEGREE	DISPOSITION
1.) Aggravated Murder w/specs of Agg. Circumstances	2903.01	F1	found guilty
2.) Aggravated Murder w/specs of Agg. Circumstance	2903.01	F1	found guilty
3.) Aggravated Burglary w/firearm spec	2911.11	F1	found guilty

*\*List only the three most serious charges beginning with the one of greatest severity and continuing in descending order.*

**JUDGMENT ENTRY**

The Court finds that the following experts and/or expenses were ordered for use in the case of an indigent person, that all rules and standards of the Ohio Public Defender Commission and State Public Defender have been met, and that an Affidavit of Indigency/Financial Disclosure Form for the above referenced person has been sent to the Office of the Ohio Public Defender, or is attached to this document.

IT IS THEREFORE ORDERED that the expert fees and/or expenses attached are hereby approved in the amount of \$ 7,012.50. It is further ordered that the said amount is certified by the Court to the County Auditor for payment.

Judge John M. Stuard  
Judge's Name (type or print)

Judge's Signature

Date

## COUNTY AUDITOR'S CERTIFICATION

The County Auditor in executing this certificate attests to the accuracy of the figures contained herein. A subsequent audit by the Ohio Public Defender Commission and/or Auditor of State that reveals unallowable or excessive costs may result in future adjustments against reimbursement or repayment of audit exceptions to the Ohio Public Defender.

PAYEE	TAX ID	WARRANT NO.	WARRANT DATE	AMOUNT
Dr. Sandra McPherson, Ph.D.	34-1496486			\$7,012.50

*(If necessary, continue on separate sheet.)*

**TOTAL** \$7,012.50

County Number \_\_\_\_\_

County Auditor's Signature

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ) Case No.01-CR-794  
vs. )  
Plaintiff, ) Judge John Stuard  
vs. )  
NATHANIEL JACKSON )  
Defendant. ) JUDGMENT ENTRY

The Court being fully advised on the premises upon due consideration thereof finds as follows:

By previous Judgment Entry, the Court authorized the securing and payment of expert assistance regarding the psychological testing, assessment, and consultations with Attorney Anthony V. Consoldane.

The Court further finds that said services rendered unto the above authorized, for the Defendant, NATHANIEL JACKSON, were necessary and the cost thereof, was reasonable.

WHEREFORE, it is ORDERED, ADJUDGED AND DECREED, that payment in the amount of \$7,012.50 shall be and the same is, hereby ordered to be made to Dr. Sandra B. McPherson, Ph.D., 12434 Cedar Road, Suite 15, Cleveland Heights, Ohio, 44106.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that this Judgment Entry authorizing the payment to Dr. Sandra McPherson in the amount of \$7,012.50 be forwarded to the Office of the Trumbull County Commissioners, Trumbull County, Ohio, and thereafter to the Trumbull County Auditor's Office for payment and the issuance of a check by the Trumbull County Treasurer's Office to Dr. Sandra McPherson.

Date 12/10/02

Judge Stuard J.W. Stuard

Mailing Address

309 S. PENN YO

Phone

Residence (if different from above)

TC JAIL

Message (1000 characters)

## 12 OTHER PERSONS LIVING IN HOUSEHOLD

Name	Age	Relationship	Name	Age	Relationship
1)			3)		
2)			4)		

## 13 MONTHLY INCOME EMPLOYMENT INFORMATION

Type of Income	Self	Spouse	Household Members	Total
Employment (Gross)	C			
Unemployment	C			
Worker's Comp.	C			
Pension	C			
Social Security	C			
Child Support	C			
Work First/TANF	C			
Disability	C			
Food Stamps	C			
Other	C			

Employer's Name (for all household members)

SUBTOTAL A

\$ C  
Phone ( )

Address

## 14 TOTAL INCOME

Type of Expense	Amount
Child Support Paid Out	C
Child Care (if working only)	C
Transportation for Work	C
Insurance	C
Medical/Dental	C
Medical & Associated Costs Of Caring for Infirm Family Members	C
<b>SUBTOTAL B</b>	<b>\$ C</b>

Total Monthly Income - Total Allowable Expenses = Total Income

<b>SUBTOTAL A</b>	<b>\$ C</b>
<b>SUBTOTAL B</b>	<b>\$ C</b>
<b>GRAND TOTAL C</b>	<b>\$ C</b>

## 15 ASSET INFORMATION

Type of Asset	Describe / Length of Ownership / Make / Model / Year (where applicable)	Estimated Value
Real Estate / Home	Price: \$	Date Purchased: Equity:
Stocks / Bonds / CD's		
Automobiles		
Trucks / Boats / Motorcycles		
Other Valuable Property		
Cash on Hand		
Money Owed to Applicant		
Other		
Checking Acct. / Bank / Acct. #		
Savings Acct. / Bank / Acct. #		
Credit Union (Name / Acct. #)		
		<b>GRAND TOTAL D</b>

0983 090

Gas	0
Fuel	0
Telephone	0
Cable	0
Water / Sewer / Trash	0
Credit Cards	0
Loans	0
Taxes Owed	0
Other	0
<b>GRAND TOTAL E</b>	0

Total Assets

Grand Total D

Total Monthly Liabilities  
and Other Expenses

Grand Total E

1. NATHANIEL JACKSON being duly sworn, say:

1. I am financially unable to retain private counsel without substantial hardship to me or my family.
2. I understand that I must inform my attorney if my financial situation should change before the disposition of my case.
3. I understand that if it is determined by the county, or by the Court, that legal representation was provided for me to which I was not entitled, I may be required to reimburse the county for the costs of representation provided. Any action filed by the county to collect legal fees hereunder must be brought within two years from the last date legal representation was provided.
4. I understand that I am subject to criminal charges for providing false financial information in connection with the above application for legal representation pursuant to Ohio Revised Code Sections 120.05 and 291.13(A)(13), (D)(4).
5. I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.

(Nathaniel Jackson)

Client's Signature

Date

Notary Public:

Subscribed and duly sworn before me according to law, by the above named applicant this 21<sup>st</sup> day of DEC 2001 at Wiley County of Tuscarawas and State of OHIOWilton V. Walker

Notary's Signature

I hereby certify the above-noted client is unable to fill out this financial disclosure form and/or is unable to sign the above affidavit. I have determined that the applicant meets the criteria for receiving court appointed counsel.

Judge / Attorney Signature

Date

Sandra B. McPherson .D.

12434 Cedar Road, Suite 15  
Cleveland Heights, OH 44106  
(216)721-1961

Statement Date

11/16/2002

Page

1

Nathaniel Jackson  
C/O Atty Anthony Consoldane

Chart Number

JACNA000

Patient: Nathaniel Jackson				Previous Balance	0.00
				Chart #: JACNA000	Case Description: Mitigation- Sandra McPherson
2/12/2002	0202120000	Transportation Time		1737	250.00
2/12/2002	0202120000	Forensic Interview		1737	250.00
2/12/2002	0202120000	Attorney Conference		1737	250.00
4/9/2002	0204120000	Transportation Time		1737	125.00
4/9/2002	0204120000	Forensic Interview		1737	250.00
4/9/2002	0204120000	Attorney Conference		1737	125.00
4/27/2002	0204290000	Review of Information		1737	500.00
5/7/2002	0205100000	Transportation Time		1737	125.00
5/7/2002	0205100000	Forensic Interview		1737	250.00
4/9/2002	0208080000	Psychological Testing		1737	150.00
8/7/2002	0208080000	Transportation Time		1737	125.00
8/7/2002	0208080000	Attorney Conference		1737	62.50
11/11/2002	0211120000	Transportation Time		1737	250.00
11/11/2002	0211120000	Forensic Interview		1737	375.00
11/11/2002	0211120000	Psychological Testing		1737	250.00
11/11/2002	0211120000	Attorney Conference		1737	250.00
11/12/2002	0211120000	Report 6-10 Pages		1737	300.00
11/14/2002	0211150000	Transportation Time		1737	250.00
11/14/2002	0211150000	Review of Information		1737	750.00
11/14/2002	0211150000	Forensic Interview		1737	500.00
Past Due 30 Days		Past Due 60 Days		Past Due 90 Days	Balance Due
0.00		0.00		3,025.00	7,012.50

0968 662

Sandra B. McPherson D.  
 12434 Cedar Road, Suite 15  
 Cleveland Heights, OH 44106  
 (216)721-1961

Statement Date  
 11/16/2002

Page  
 2

Nathaniel Jackson  
 C/O Atty Anthony Consoldane

Chart Number  
 JACNA000

Time Billed				
Date	Code	Description	Time	Amount
11/14/2002	0211150000	Court Time	1737	500.00
Patient: Nathaniel Jackson		Chart #: JACNA000		Case Description: Mitigation - Donald McPherson
2/12/2002	0202120000	Forensic Interview	1761	75.00
3/13/2002	0203130000	Transportation Time	1761	75.00
3/13/2002	0203130000	Psychological Testing	1781	262.50
8/7/2002	0208080000	Psychological Testing	1761	150.00
11/5/2002	0211060000	Transportation Time	1761	150.00
11/5/2002	0211060000	Obtaining Records	1761	150.00
11/7/2002	0211080000	Transportation Time	1761	112.50
11/7/2002	0211080000	Obtaining Records	1761	150.00

Past Due 30 Days	Past Due 60 Days	Past Due 90 Days	Balance Due
0.00	0.00	3,025.00	7,012.50

0988 883

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO  
CASE NO. 01-CR-794

STATE OF OHIO, )  
PLAINTIFF )  
vs. ) JUDGMENT ENTRY  
NATHANIEL E. JACKSON, )  
DEFENDANT )  
RECORDED  
12/11/02 AM '02

This Court has considered Defendant's Motion for a Proportionality Review as argued by oral motion.

After reviewing available case law and oral argument, it is the opinion of the Court that any review of the proportionality of imposition of death sentence is within the context of appellate review and not the trial court.

Defendant's Motion is denied.

12/11/02 - 12/9/02  
Copies sent to: DATE

Pros.  
aConsoldone



JUDGE JOHN M. STUARD

TO THE CLERK OF COURTS: YOU ARE ORDERED TO SERVE COPIES OF THIS JUDGMENT ON ALL COUNSEL OF RECORD OR UPON THE PARTIES WHO ARE UNREPRESENTED FORTHWITH.  
WITH A COPY TO THE PROSECUTOR  
John M. Stuard  
JUDGE

0989 004

187

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO  
CASE NO. 01-CR-794

STATE OF OHIO, )  
PLAINTIFF )  
VS. ) JUDGMENT ENTRY  
NATHANIEL E. JACKSON, )  
DEFENDANT )

DEFENDANT'S MOTION FOR NEW TRIAL IS HEREBY DENIED.

12/10/02  
DATE

JUDGE JOHN M. STUARD

DEC 11 2002  
TRUMBULL COUNTY  
COURT OF COMMON PLEAS  
JUDGE JOHN M. STUARD

TO THE CLERK OF COURTS - YOU ARE ORDERED TO SERVE  
COPIES OF THIS JUDGMENT ENTRY ON THE DEFENDANT OR HIS  
OR UPON THE DEFENDANT'S ATTORNEY OR THE ATTORNEY FOR THE  
WITHIN 10 DAYS OF THIS JUDGMENT. THIS JUDGMENT IS FINAL.  
John M. Stuard  
JUDGE

12/11/02 -  
Copies  
Sent to:  
Pres.  
a Consolidation

0989 005

182

W A R R A N T T O C O N V E Y SHERIFF'S OFFICE

CORRECTION RECEPTION CENTER  
REVISED CODE, SEC. 2949.12 TO 17 DEC 10 103 PM '02

COURT OF COMMON PLEAS, TRUMBULL COUNTY, WARREN, OHIO

STATE OF OHIO

*Deputy Sheriff*  
SHERIFF TRUMBULL COUNTY  
CASE NO. 2001 CR 00794

VS.

**NATHANIEL E JACKSON**

**TO THE SHERIFF OF SAID COUNTY:**

WHEREAS, our said Court, begun and held at Warren, Ohio in said county, on DECEMBER 9 2002, the said Defendant

**NATHANIEL E JACKSON**

was indicted for:

**AGGRAVATED MURDER**

and was sentenced by the Court to the CORRECTION RECEPTION CENTER.

YOU ARE THEREFORE HEREBY COMMANDED, to take charge of and convey the said

**NATHANIEL E JACKSON**

to the CORRECTION RECEPTION CENTER at LORAIN OHIO.

and make due return of your proceeding herein to this office forthwith.

IN TESTIMONY WHEREOF, I have hereunto  
set my hand and affixed the seal of said  
Court at Trumbull County, Warren, Ohio this  
December 10, 2002

MARGARET R. O'BRIEN, Clerk of Courts

By Rochelle Ryan

Deputy Clerk

MARGARET R. O'BRIEN  
CLERK OF COURTS  
TRUMBULL COUNTY  
OHIO  
DEC 13 3 56 PM '02  
RECEIVED  
RECEIVED  
VOL

27742

CASE NO. 2001 CR 00794

GUTHIRN

TRUMBULL COUNTY COMMON PLEAS COURT

Trumbull County, Warren, Ohio

STATE OF OHIO

VS

NATHANIEL E. JACKSON

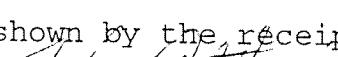
WARRANT TO CONVEY

RETURNED AND FILED

MARGARET R. O'BRIEN, Clerk of Courts

五

DEPUTY CLERK

Received this writ on the 11 day of  
December, 2002  
at 8:04 o'clock A.M., and on the  
11<sup>th</sup> day of December, 2002  
I executed the same by conveying the  
person named to the place designated.  
as shown by the receipt endorsed hereon  
  
SHERIFF  
Juan Freeman  
DEPUTY

*	FEES	*	
*		*	
*	MILEAGE	\$ <u>24.90</u>	*
*		*	
*	SERVICE	\$ <u>10.00</u>	*
*		*	
*	OTHER	\$ _____	*
*		*	

\* TOTAL \$ 3490 \*

LORCI

12-11-52

Received this day, from \_\_\_\_\_  
\_\_\_\_ Sheriff of \_\_\_\_\_  
\_\_\_\_ County, Ohio the  
prisoner named in the within warrant.

K. Loflin - Admin  
Superintendent

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ) Case No. 01-CR-794  
Plaintiff, ) Judge John Stuard  
NATHANIEL JACKSON, )  
Defendant, ) MOTION TO PROVIDE FINDING  
OF FACT AND CONCLUSION

Now comes the Defendant, NATHANIEL JACKSON, by and through his attorney, Anthony V. Consoldane, of the Trumbull County Branch Office of the Ohio Public Defender's Commission and hereby moves the Court for a Finding of Fact and Conclusion of Law in regard to the two attached Judgment Entries.

Respectfully submitted,

  
DAVID H. BODIKER #0016590

OHIO PUBLIC DEFENDER

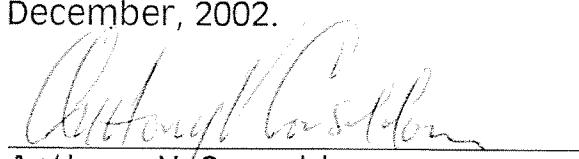
  
JAMES F. LEWIS #0024314  
ASSISTANT STATE PUBLIC DEFENDER

  
ANTHONY V. CONSOLDANE #0000761  
ASSISTANT STATE PUBLIC DEFENDER

BRANCH OFFICE OF THE OHIO PUBLIC DEFENDER  
328 Mahoning Avenue  
Warren, Ohio 44483  
(330)393-7727 FAX (330)393-7076  
COUNSEL FOR NATHANIEL JACKSON

CERTIFICATION

I hereby certify that a copy of the foregoing Motion was delivered to the Trumbull County Prosecutor's Office, 160 High Street, Warren, Ohio, 44481, this 13<sup>th</sup> day of December, 2002.

  
\_\_\_\_\_  
Anthony V. Consoldane  
Attorney for Defendant

EXECUTION FOR COSTS IN FELONY

Revised Code, Sec.2949.15

\* \* \* \* \*

Case No. 2001 CR 00794

The State of Ohio, Trumbull, County.

Common Pleas Court

State of Ohio  
Trumbull County  
Common Pleas Court

Dec 10 2001  
701 W 33rd

To the Sheriff of said County:

You are Hereby Commanded, That of the goods and chattels, and for want thereof, then of the lands and tenements of

**NATHANIEL E JACKSON**

in your County, whereof HE was convicted, as appears of record, with interest thereon from the first day of the term aforesaid; also you cause to be made the costs of execution and increase costs that accrue.

Hereof fail not, but of this writ and your proceedings endorsed hereon, make due return, within ten days from the date hereof.

WITNESS my hand and the seal of said Court.

at Warren, Ohio, this

December 10, 2002

**MARGARET R. O'BRIEN**  
Clerk of Courts

By Rochelle Ryan  
Deputy

MARGARET R. O'BRIEN  
Clerk of Courts  
Trumbull County, Ohio  
Dec 10 2001  
701 W 33rd

278-286

CASE NO. 2001 CR 0075

RETURN

Received this writ on the 10 day of  
Dec, 2008  
at 1:03 o'clock PM., and on the  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

TRUMBULL COUNTY COMMON PLEAS COURT

Trumbull County, Warren, Ohio

STATE OF OHIO

vs.

NATHANIEL E JACKSON

EXECUTION FOR COSTS

SHERIFF

DEPUTY

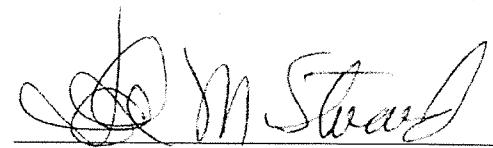
*	FEES	*
*		*
*		*
*	MILEAGE      \$ _____	*
*		*
*	SERVICE      \$ <u>5-</u>	*
*		*
*	OTHER      \$ _____	*
*		*
*	_____      \$ _____	*
*		*
*		*
*	TOTAL      \$ <u>5-</u>	*
*		*

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY OHIO

STATE OF OHIO,	)	CASE NO. 01-CR-794
	)	
Plaintiff,	)	JUDGE JOHN M. STUARD
	)	
-vs-	)	JUDGEMENT ON THE VERDICT
	)	
NATHANIEL E. JACKSON,	)	
	)	
Defendant.	)	

The Jury, on November 27, 2002, having returned verdicts of "Guilty" on Count One: Aggravated Murder (O.R.C. §§2903.01(A) and 2941.14(C)) of Robert S. Fingerhut with two (2) separate Specifications of Aggravating Circumstances, to wit: Specification No. 1: Aggravated Burglary (O.R.C. §2929.04(A)(7)); Specification No. 2 Aggravated Robbery (O.R.C. §2929.04(A)(7)); Count Two: Aggravated Murder (O.R.C. §§2903.01(B)) of Robert S. Fingerhut with two (2) separate Specifications of Aggravating Circumstances, to wit: Specification No. 1: Aggravated Burglary (O.R.C. §2929.04(A)(7)); Specification No. 2: Aggravated Robbery (O.R.C. §2929.04(A)(7)); Count Three: Aggravated Burglary with Firearm Specification (O.R.C. §2911.11(A)(1)(2) and 2941.145); and Count Four Aggravated Robbery with Firearm Specification (O.R.C. §2911.01(A)(1)(3) and 2941.145), and the Court having examined the same and finding the same regular as to form, it is hereby ORDERED, ADJUDGED and DECREED that judgment is hereby rendered on said verdicts.

Dated: 12/2/09



HON. JOHN M. STUARD  
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office  
Atty. James Lewis/ Atty. Anthony Consoldane

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ) Case No. 01-CR-794  
Plaintiff )  
-vs- ) Judge John Stuard  
NATHANIEL JACKSON, ) JUDGMENT ENTRY  
Defendant )

This Court has considered Defendant's Motion to Provide Findings of Fact and Conclusions of Law with respect to its December 11, 2002 Judgment Entry denying Defendant's Motion for a New Trial and its December 11, 2002 Judgment Entry denying Defendant's Motion for a Proportionality Review.

Pursuant to *State ex rel. Collins v. Pokorny* (1999), 86 Ohio St.3d 70, this Court has no duty to issue findings of fact and conclusions of law in connection with the denial of a motion for new trial. Furthermore, as a matter of law this Court is not obligated to issue findings of fact and conclusions of law after denying a party's Motion for Proportionality Review.

After review of the relevant law, Defendant's Motion is denied.

2/17/02 - Copies  
sent to:

Pros. 12/15/02  
Consolidate DATE

  
John M. Stuard

TO THE CLERK OF COURTS: YOU ARE ORDERED TO SERVE COPIES OF THIS JUDGMENT ON ALL COUNSEL OF RECORD OR UPON THE PARTIES WHO ARE UNREPRESENTED FORTHWITH BY ORDINARY MAIL.

JUDGE

0989 424

288

711 N.E.2d 683  
1999-Ohio-343  
(Cite as: 86 Ohio St.3d 70, 711 N.E.2d 683)

**H**

Supreme Court of Ohio.

The STATE ex rel. COLLINS, Appellant,  
v.  
POKORNY, Judge, Appellee.

No. 99-74.

Submitted May 4, 1999.  
Decided July 7, 1999.

Defendant whose convictions for aggravated burglary and aggravated robbery were affirmed on direct appeal, and whose motion for new trial was denied by the Court of Common Pleas, Cuyahoga County, Thomas J. Pokorny, J., sought writ of mandamus compelling judge who had denied new trial motion to issue findings of fact and conclusions of law. After request was denied, defendant filed complaint for writ of procedendo to compel judge to issue findings and conclusions. The Court of Appeals, Cuyahoga County, granted judge's motion to dismiss. Defendant appealed, and the Supreme Court held that: (1) judge had no duty to issue findings or conclusions in denying motion, and (2) doctrine of res judicata in any event barred defendant from raising issue.

Affirmed.

West Headnotes

**[1] Criminal Law**  961  
110k961 Most Cited Cases

Judge had no duty to issue findings of fact and conclusions of law in connection with denial of motion for new trial. Rules Crim. Proc., Rule 33.

**[2] Judgment**  751  
228k751 Most Cited Cases

Doctrine of res judicata barred criminal defendant, who had unsuccessfully sought writ of mandamus compelling judge who had denied his motion for new trial to issue findings of fact and conclusions of law in connection with denial, from raising same issue in complaint seeking writ of procedendo.

<sup>\*\*683 \*70</sup> In 1991, appellant, Larry Collins, was

convicted of aggravated burglary and aggravated robbery and sentenced to an aggregate prison term of ten to twenty-five years. The court of appeals affirmed his conviction and sentence. State v. Collins (Feb. 4, 1993), Cuyahoga App. No. 61713, unreported, 1993 WL 27638.

In July 1996, appellee, Cuyahoga County Common Pleas Court Judge Thomas J. Pokorny, denied Collins's motion for new trial, and in January 1997, Judge Pokorny denied Collins's motion for explanation or reconsideration of the denial of the new trial motion. In March 1997, the court of appeals denied Collins's request for a writ of mandamus to compel Judge Pokorny to issue findings of fact and conclusions of law on his July 1996 decision denying the motion for new trial. State ex rel. Collins v. Pokorny (Mar. 20, 1997), Cuyahoga App. No. 71960, unreported, 1997 WL 127189.

In September 1998, Collins filed a complaint in the court of appeals for a writ of procedendo to compel Judge Pokorny to issue findings of fact and conclusions of law on the July 1996 denial of Collins's motion for new trial. Judge Pokorny filed a motion to <sup>\*\*684</sup> dismiss. The court of appeals granted the motion and dismissed the action.

This cause is now before the court upon an appeal as of right.

Larry Collins, pro se.

PER CURIAM.

Collins asserts in his propositions of law that the court of appeals erred in dismissing his procedendo action. For the following reasons, Collins's assertion lacks merit.

[1] As the court of appeals correctly held, Judge Pokorny had no duty to issue findings of fact and conclusions of law when he denied Collins's Crim.R. 33 motion for a new trial. State v. Girts (1997), 121 Ohio App.3d 539, 565, 700 N.E.2d 395, 412; see, generally, State ex rel. Grove v. Nadel (1998), 81 Ohio St.3d 325, 326, 691 N.E.2d 275, 276.

[2] \*71 In addition, *res judicata* barred Collins from

raising the same issue that he had raised in his previous mandamus action. *Russell v. Mitchell* (1999), 84 Ohio St.3d 328, 329, 703 N.E.2d 1249.

Based on the foregoing, we affirm the judgment of the court of appeals.

*Judgment affirmed.*

MOYER, C.J., DOUGLAS, RESNICK, FRANCIS E.  
SWEENEY, SR., PFEIFER, COOK and LUNDBERG  
STRATTON, JJ., concur.

711 N.E.2d 683, 86 Ohio St.3d 70, 1999-Ohio-343

END OF DOCUMENT

In the Trumbull County

Court of Common Pleas / Warren, Ohio.

**Plaintiff:**

Case No. 01-CR-794

v. Nathaniel Jackson

---

**Defendant/Party Represented**

In re: \_\_\_\_\_ Attorney James F. Lewis \_\_\_\_\_

Attorney Anthony V. Consoldane

## CHARGES

OFFENSE/CHARGE/MATTER	ORC/CITY CODE	DEGREE	DISPOSITION
1.) Aggravated Murder w/specs of Agg. Circumstances	2903.01	F1	found guilty
2.) Aggravated Murder w/specs of Agg. Circumstance	2903.01	F1	found guilty
3.) Aggravated Burglary w/firearm spec	2911.11	F1	found guilty

*\*I list only the three most serious charges beginning with the one of greatest severity and continuing in descending order.*

**JUDGMENT ENTRY**

The Court finds that the following experts and/or expenses were ordered for use in the case of an indigent person, that all rules and standards of the Ohio Public Defender Commission and State Public Defender have been met, and that an Affidavit of Indigency/Financial Disclosure Form for the above referenced person has been sent to the Office of the Ohio Public Defender, or is attached to this document.

IT IS THEREFORE ORDERED that the expert fees and/or expenses attached are hereby approved in the amount of \$ 7,012.50. It is further ordered that the said amount is certified by the Court to the County Auditor for payment.

Judge John M. Stuard

Judge's Name (type or print)

Judae's Signature

Date

**COUNTY AUDITOR'S CERTIFICATION**

The County Auditor in executing this certificate attests to the accuracy of the figures contained herein. A subsequent audit by the Ohio Public Defender Commission and/or Auditor of State that reveals unallowable or excessive costs may result in future adjustments against reimbursement or repayment of audit exceptions to the Ohio Public Defender.

PAYEE	TAX ID	WARRANT NO.	WARRANT DATE	AMOUNT
Dr. Sandra McPherson, Ph.D.	34-1496486			\$7,012.50

(If necessary, continue on separate sheet.)

TOTAL \$7,012.50

County Number \_\_\_\_\_

---

County Auditor's Signature

卷之三 09 (1/00)

0990 462

1/3/03 - cc to Auditor

389

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ) Case No.01-CR-794  
 )  
 Plaintiff, ) Judge John Stuard  
 )  
 vs. )  
 )  
 NATHANIEL JACKSON ) JUDGMENT ENTRY  
 Defendant. )

The Court being fully advised on the premises upon due consideration thereof finds as follows:

By previous Judgment Entry, the Court authorized the securing and payment of expert assistance regarding the psychological testing, assessment, and consultations with Attorney Anthony V. Consoldane.

The Court further finds that said services rendered unto the above authorized, for the Defendant, NATHANIEL JACKSON, were necessary and the cost thereof, was reasonable.

WHEREFORE, it is ORDERED, ADJUDGED AND DECREED, that payment in the amount of \$7,012.50 shall be and the same is, hereby ordered to be made to Dr. Sandra B. McPherson, Ph.D., 12434 Cedar Road, Suite 15, Cleveland Heights, Ohio. 44106.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that this Judgment Entry authorizing the payment to Dr. Sandra McPherson in the amount of \$7,012.50 be forwarded to the Office of the Trumbull County Commissioners, Trumbull County, Ohio, and thereafter to the Trumbull County Auditor's Office for payment and the issuance of a check by the Trumbull County Treasurer's Office to Dr. Sandra McPherson.

Date

1/2/03

Judge Stuard

*John M. Stuard*

Mailing Address

304 S. 18th

Residence (if different from above)

TC JAIL

Message Phone (within 40  
( ))

## [REDACTED] OTHER PERSONS LIVING IN HOUSEHOLD

Name 1)	Age	Relationship	Name 3)	Age	Relationship
2)			4)		

[REDACTED] MONTHLY INCOME INFORMATION			Total		
Type of Income	Self	Spouse	Household Members		
Employment (Gross)	C				
Unemployment	C				
Worker's Comp.	C				
Pension	C				
Social Security	C				
Child Support	C				
Work First/TANF	C				
Disability	C				
Food Stamps	C				
Other	C				
Employer's Name (for all household members)			SUBTOTAL A	\$ C	Phone ( )

Address

[REDACTED] V TOTAL INCOME

[REDACTED] ALLOWABLE EXPENSES	
Type of Expense	Amount
Child Support Paid Out	C
Child Care (if working only)	C
Transportation for Work	C
Insurance	C
Medical/Dental	C
Medical & Associated Costs Of Caring for infirm Family Members	C
SUBTOTAL B	\$ C

Total Monthly Income - Total Allowable Expenses = Total Income

SUBTOTAL A	\$ C
SUBTOTAL B	\$ C
GRAND TOTAL C	\$ C

## [REDACTED] ASSET INFORMATION

Type of Asset	Describe / Length of Ownership / Make, Model, Year (where applicable)			Estimated
Real Estate / Home	Price:\$	Date Purchased:	Equity:	
Stocks / Bonds / CD's				C
Automobiles				C
Trucks / Boats / Motorcycles				C
Other Valuable Property				C
Cash on Hand				C
Money Owed to Applicant				C
Other				C
Checking Acct. Bank / Acct. #:				C
Savings Acct. Bank / Acct. #:				C
Credit Union Name / Acct. #:				C
			GRAND TOTAL D	\$ C

Gas	0
Fuel	0
Telephone	0
Cable	0
Water / Sewer / Trash	0
Credit Cards	0
Loans	0
Taxes Owed	0
Other	0
<b>GRAND TOTAL E</b>	0

Total Assets

Grand Total D

Total Monthly Liabilities  
and Other Expenses

Grand Total E

1. NATHANIEL JACKSON being duly sworn, say:

1. I am financially unable to retain private counsel without substantial hardship to me or my family.
2. I understand that I must inform my attorney if my financial situation should change before the disposition of my case.
3. I understand that if it is determined by the county, or by the Court, that legal representation was provided for me to which I was not entitled, I may be required to reimburse the county for the costs of representation provided. Any action filed by the county to collect legal fees hereunder must be brought within two years from the last date legal representation was provided.
4. I understand that I am subject to criminal charges for providing false financial information in connection with the above application for legal representation pursuant to Ohio Revised Code Sections 120.05 and 291.13(A)(13), (D)(4).
5. I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.

Nathaniel Jackson

Client's Signature

Date

Notary Public:

Subscribed and duly sworn before me according to law, by the above named applicant this 21<sup>st</sup> day of DEC 2001 at Wien County of Tuscarawas and State of OHIOWittong Mai-Schaefer

Notary's Signature

I hereby certify the above-noted client is unable to fill out this financial disclosure form and/or is unable to sign the above affidavit. I have determined that the applicant meets the criteria for receiving court appointed counsel.

Judge / Attorney Signature

Date

12434 Cedar Road, Suite 15  
Cleveland Heights, OH 44106  
(216)721-1961

Statement Date

11/16/2002

Page

1

Nathaniel Jackson  
C/O Atty Anthony Consoldane

Chart Number

JACNA000

Statement of Account				
Patient: Nathaniel Jackson		Previous Balance	0.00	
		Chart #: JACNA000	Case Description: Mitigation- Sandra McPherson	
2/12/2002	0202120000	Transportation Time	1737	250.00
2/12/2002	0202120000	Forensic Interview	1737	250.00
2/12/2002	0202120000	Attorney Conference	1737	250.00
4/9/2002	0204120000	Transportation Time	1737	125.00
4/9/2002	0204120000	Forensic Interview	1737	250.00
4/9/2002	0204120000	Attorney Conference	1737	125.00
4/27/2002	0204290000	Review of Information	1737	500.00
5/7/2002	0205100000	Transportation Time	1737	125.00
5/7/2002	0205100000	Forensic Interview	1737	250.00
4/9/2002	0208080000	Psychological Testing	1737	150.00
8/7/2002	0208080000	Transportation Time	1737	125.00
8/7/2002	0208080000	Attorney Conference	1737	62.50
11/11/2002	0211120000	Transportation Time	1737	250.00
11/11/2002	0211120000	Forensic Interview	1737	375.00
11/11/2002	0211120000	Psychological Testing	1737	250.00
11/11/2002	0211120000	Attorney Conference	1737	250.00
11/12/2002	0211120000	Report 6-10 Pages	1737	300.00
11/14/2002	0211150000	Transportation Time	1737	250.00
11/14/2002	0211150000	Review of Information	1737	750.00
11/14/2002	0211150000	Forensic Interview	1737	500.00
Past Due 30 Days		Past Due 60 Days	Past Due 90 Days	Balance Due
0.00		0.00	3,025.00	7,012.50

0990 466

Sandra B. McPherson .D.  
 12434 Cedar Road, Suite 15  
 Cleveland Heights, OH 44106  
 (216)721-1961

Statement Date

11/15/2002

Page

2

Nathaniel Jackson  
 C/O Atty Anthony Consoldane

Chart Number

JACNA000

Date		Procedure	Time	Amount
11/14/2002	0211150000	Court Time	1737	500.00
Patient: Nathaniel Jackson		Chart #: JACNA000	Case Description: Mitigation - Donald McPherson	
2/12/2002	0202120000	Forensic Interview	1761	75.00
3/13/2002	0203130000	Transportation Time	1761	75.00
3/13/2002	0203130000	Psychological Testing	1761	262.50
8/7/2002	0208080000	Psychological Testing	1761	150.00
11/5/2002	0211060000	Transportation Time	1761	150.00
11/5/2002	0211060000	Obtaining Records	1761	150.00
11/7/2002	0211080000	Transportation Time	1761	112.50
11/7/2002	0211080000	Obtaining Records	1761	150.00

Past Due 30 Days	Past Due 60 Days	Past Due 90 Days	Balance Due
0.00	0.00	3,025.00	7,012.50

0990 467

*Stuard*  
IN THE COURT OF COMMON PLEAS

TRUMBULL COUNTY, OHIO

STATE OF OHIO

) CASE NO. 01 CR 794

Plaintiff

) JUDGE JOHN M. STUARD

vs.

) MOTION FOR TRANSCRIPTS

NATHANIEL E. JACKSON

)

Defendant

)

Now comes Defendant, NATHANIEL E. JACKSON, through counsel moves this Court for an Order allowing Mary Ann Mills, Kelly Wilson and Lori Rittwadge, Official Court Reporters, to produce a copy of all proceedings, from arraignment through sentencing before this Court in the above captioned case for purposes of appeal.

Defendant has a valid Affidavit of Indigency on file with the clerk of courts.

Defendant further requests that the transcript be taxed as costs.

Respectfully submitted,

*John P. Laczko*  
JOHN P. LACZKO #0051918  
4800 Market St. Ste. C  
Youngstown, Ohio 44512  
(330) 788-2480  
Counsel for Defendant

IT IS SO ORDERED:

*J. M. Stuard*  
JUDGE JOHN M. STUARD

MARY ANN M. O'NEILL  
CLERK OF COURT  
TRUMBULL COUNTY, OHIO

JUN 21 2003

RECORDED  
FILED  
JUN 21 2003

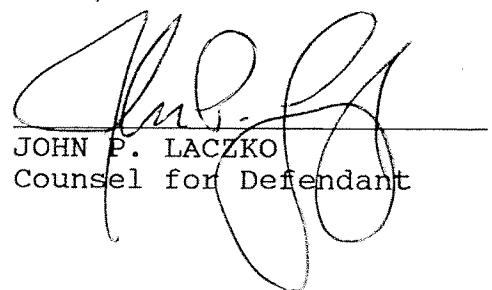
ED. 1018 6/21/03

0993 384

290

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing document has been sent via regular U.S. Mail this 17<sup>th</sup> day of January, 2003, to the following: Atty. LuWayne Annos, Trumbull County Prosecutor's Office, 160 High St., Fourth Floor, Warren, Ohio 44481 and Mary Ann Mills, Kelly Wilson and Lori Rittwadge, Official Court Reporters, Trumbull County Courthouse, 160 High St., Warren, Ohio 44481.

  
JOHN P. LACZKO  
Counsel for Defendant

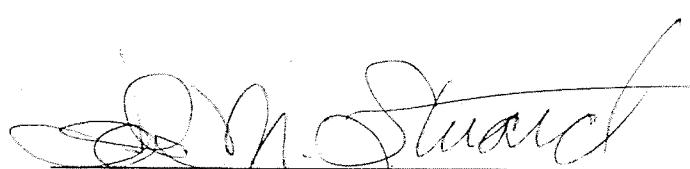
IN THE COURT OF COMMON PLEAS

TRUMBULL COUNTY, OHIO

STATE OF OHIO ) CASE NO. 01 CR 794  
Plaintiff ) JUDGE JOHN M. STUARD  
vs. ) ORDER  
NATHANIEL E. JACKSON )  
Defendant )

Upon Motion of the Defendant, and for good cause shown,  
IT IS HEREBY ORDERED that Mary Ann Mills, Kelly Wilson and  
Lori Rittwadge, Official Court Reporters, produce a copy of  
all proceedings before this Court in the above case for  
purposes of appeal. A valid Affidavit of Indigency has been  
filed with the Clerk of Court's office. Said transcripts are  
to be taxed as costs.

IT IS SO ORDERED.



JUDGE JOHN M. STUARD

John P. Laczko, Counsel for Defendant  
Mary Ann Mills, Court Reporter  
Kelly Wilson, Court Reporter  
Lori Rittwadge, Court Reporter  
LuWayne Annos, Trumbull County Prosecutor's Office

SEARCHED  
INDEXED  
SERIALIZED  
FILED  
APR 21 2003  
TRUMBULL COUNTY CLERK'S OFFICE

JUN 21 2003  
12:24 PM  
TRUMBULL COUNTY CLERK'S OFFICE

6931 929

IN THE COURT OF COMMON PLEAS

TRUMBULL COUNTY, OHIO

STATE OF OHIO ) CASE NO. 01 CR 794  
Plaintiff ) JUDGE JOHN M. STUARD  
vs. ) MOTION FOR TRANSCRIPTS  
NATHANIEL E. JACKSON )  
Defendant )

Now comes Defendant, NATHANIEL E. JACKSON, through counsel moves this Court for an Order allowing Mary Ann Mills, Kelly Wilson and Lori Rittwadge, Official Court Reporters, to produce a copy of all proceedings, from arraignment through sentencing before this Court in the above captioned case for purposes of appeal.

Defendant has a valid Affidavit of Indigency on file with the clerk of courts.

Defendant further requests that the transcript be taxed as costs.

Respectfully submitted,

JOHN P. LACZKO #0051918  
4800 Market St. Ste. C  
Youngstown, Ohio 44512  
(330) 788-2480  
Counsel for Defendant

IT IS SO ORDERED:

## JUDGE JOHN M. STUARD

THE MUSEUM OF THE OREGONIAN,  
CLERMONT, CALIFORNIA.

JAN 21 12 06 PM '03

## IT IS SO ORDERED:

## JUDGE JOHN M. STUARD

0993 384

763

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ) CASE NO. :01-CR-794  
Plaintiff, )  
vs- ) JUDGE: :JOHN M. STUARD  
NATHANIEL E. JACKSON, )  
Defendant. )  
 ) MEMORANDUM IN OPPOSITION TO  
 ) DEFENDANT'S MOTION TO PROHIBIT  
 ) REFERENCE TO NATURE AND  
 ) CIRCUMSTANCES OF THE OFFENSE  
 ) AS A FACTOR TO BE CONSIDERED IN  
 ) MITIGATION OR IN INTRODUCTORY  
 ) LANGUAGE RESPECTING  
 ) MITIGATION  
 ) (Motion No. 54)

Defendant requests that this Court not refer to the "nature and circumstances of the offense" when it identifies the evidence presented by the defendant at the penalty phase, when it introduces the concept of the evidence to be weighed against the aggravating circumstances at that phase, or when it lists the mitigating factors during its instructions at that phase.

Defendant's motion is premature and should be overruled.

First, it is unknown at this point whether there will even be a penalty phase in this case. Second, even if it were assumed that there will be such a phase, it remains unknown at this point what evidence the defendant would present. Thus, this motion should be overruled at this point, with the proviso that Defendant may renew the motion at the appropriate time.

For the reasons thus stated, the State respectfully requests that Defendant's motion be overruled.

Respectfully Submitted,  
STATE OF OHIO, by

DENNIS WATKINS (#0009949)  
Trumbull County Prosecuting Attorney

294

and

---

CHARLES L. MORROW (#0040575)  
Assistant Prosecutor  
Trumbull County Prosecutor's Office  
160 High Street, NW  
3rd Floor Administration Bldg.  
Warren, Ohio 44481  
(330)-675-2426

**CERTIFICATION**

This is to certify that a copy of the foregoing motion was hand delivered to counsel for the Defendant, this March 13, 2002.

---

CHARLES L. MORROW (#0040575)  
Assistant Prosecuting Attorney  
Trumbull County Prosecutor's Office  
Trumbull County, Ohio 44485